IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

WP(C).No. 1089 of 2007(D)

PETITIONER:

P.K. MOHANAN, AGED 56 YEARS,
S/O. KUNJACHAN (LATE), SREE NARAYANA MANDIRAM,
ULLALA P.O., VAIKOM, KOTTAYAM DISTRICT.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS:

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1. THE SPECIAL SALE OFFICER,
KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.,
P.B.NO.146, KOTTAYAM-686 001.

2. KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.
AMBIKA MARKET BRANCH, VAIKOM, REPRESENTED BY ITS
BRANCH MANAGER.

3. THOMAS JOSEPH,
KALAMBATHARA HOUSE, KOTHAVARA P.O., VAIKOM,
KOTTAYAM DISTRICT.

BY ADV. SRI.V.G.ARUN FOR R2
SRI.T.R.HARIKUMAR FOR R2
GOVT. PLEADER SRI.P.K.RAVIKRISHNAN FOR R1

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 PHOTOCOPY OF THE NOTICE DTD. 15-12-06 ISSUED BY THE FIRST RESPONDENT.

EXT.P2 PHOTOCOP OF THE SALE DEED DTD. 7-6-97 EXECUTED IN FAVOUR OF THE PETITIONER.

EXT.P3 PHOTOCOPY OF THE OBJECTION TO EXT.P1 DATED NIL SENT TO THE FIRST RESPONDENT.

/True Copy/

PS to Judge.

K. M. JOSEPH, J.

W.P.C. NO. 1089 OF 2007 D

Dated this the 17th September, 2007

JUDGMENT

Petitioner has approached this Court on the following brief allegations:

Petitioner purchased under Ext.P2, 3.85 Ares of property belonging to the third respondent. But now, the property is proceeded against for the amount due from the third respondent to the second respondent. Petitioner seeks to quash Ext.P1 notice under which the sale of the immovable property is to be held. This Court by interim order directed that for the time being proceedings as per Ext.P1 shall be only in respect of the extent of the property, excluding the property covered by Ext.P2 Sale Deed. I heard the learned counsel appearing for the respondent Bank also. In view of the fact that there are other properties belonging to the third respondent, excluding the property covered by Ext.P2 Sale Deed in favour of the

petitioner, against which the respondent Bank can proceed, the Writ Petition is disposed of with a direction to respondents 1 and 2 not to proceed against the property covered by Ext.P2 unless and until after having proceeded against the property of the third respondent excluding Ext.P2 property, it is found that there remains amount to be realised in the Loan Account.

K. M. JOSEPH, JUDGE

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